

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LAMARRAY CHASE, SR.,

Plaintiff,

v.

Case No. 18-cv-0594-bhl

C.O. SCHMITT, et al.,

Defendants.

ORDER DISMISSING DEFENDANTS

Lamarray Chase, Sr. is a Wisconsin state inmate who is representing himself. He filed a civil rights complaint in April 2018, alleging that numerous officials at the Milwaukee County Jail violated his constitutional rights by failing to provide him with proper care for his gunshot wound. (ECF No. 1.) On October 8, 2019, the Court adopted the Magistrate Judge’s report and recommendation screening Chase’s complaint and allowed him to proceed against “C.O. Schmitt,” Diane Blue (sued as C.O. Blue), George Gold (sued as Lt. Gold), “C.O. Whiteside,” Nurse Franko, and John and Jane Doe Nurses. (ECF No. 12 at 3–5.) The court ordered that the screening order and complaint be served on the defendants. (*Id.* at 7–8.)

About a month later, Milwaukee County Corporation Counsel entered an appearance and accepted service on behalf of Gold and Blue but indicated that no one with the last names “Schmitt” or “Whiteside” has ever worked at the Milwaukee County Jail. (ECF Nos. 13, 14.) The United States Marshals Service tried to serve defendant Nurse Franko, who was not a Milwaukee County employee and would therefore not be represented by Corporation Counsel, but they were unsuccessful after several attempts and, as described in the Court’s prior order, exhausted the methods available to them without knowing Franko’s first name. (ECF Nos. 17, 20, 21, 22, 23, and 24.) Given these problems with service, on June 1, 2020, the Court issued a new order, opened discovery for the limited purpose of giving Chase the opportunity to identify the unserved defendants, which included the three named defendants—Schmitt, Whiteside, and Franko—as well as the John and Jane Doe placeholder for the unknown nurses. (ECF No. 26.)

The June 1 Order explained how Chase could go about identifying the defendants and gave him until August 31, 2020 to do so. (*Id.* at 3–4.) The Court also directed Chase to file a motion to substitute once he had the defendants’ names, while acknowledging that the process might take more than the 90 days given him, and encouraging him to ask for more time if he needed it. (*Id.* at 4.) The Court also specifically warned Chase that the Court would dismiss Schmitt, Whiteside, Franko, and the Doe defendant nurses if he failed to file a motion to substitute or ask for more time by August 31.

More than four months have passed since the Court’s June 1, 2020 Order and the August 31 deadline for him to amend the complaint has also long since passed, and the Court has not heard anything from Chase. The Court notes that the plaintiff was released from custody on June 16, 2020, *see* Wisconsin Inmate Locator, <https://appsdoc.wi.gov/lop/home.do> (last visited Oct. 1, 2020), and perhaps he no longer wishes to proceed against Schmitt, Whiteside, Franko, and the Doe defendant nurses. Regardless, his failure to comply with the deadline will result in their dismissal from the case. Therefore,

IT IS HEREBY ORDERED that C.O. Schmitt, C.O. Whiteside, Nurse Franko, and John and Jane Doe Nurses are **DISMISSED** from this lawsuit.

Dated at Milwaukee, Wisconsin this 14th day of October, 2020.

s/ Brett H. Ludwig
Brett H. Ludwig
United States District Judge